REMARKS

The Office examined claims 1-18 and rejected 1, 2, 4-8, 14 and 16-18. This paper requests entry of an amendment that is believed not to require a further search because it nowhere eliminates limitations in any of the claims, and adds two new independent claims both having limitations corresponding to the limitations of claim 14, and a new dependent claim having limitations corresponding to claim 15. No claims are canceled. Thus claims 1-21 are now in the application.

The independent claims are 1, 14, and 16-20.

Rejections under 35 USC §102

At section 2 of the Office action, claims 1, 4, 14 and 16-18 are rejected under 35 USC §102 as being anticipated by Yanagihara *et al.* (U.S. Pub. 2003/0152032).

Claim 1 is to a method including a step in which a sender transmits segments at a rate of transmission and increases the rate of transmission based on feedback the sender receives from the receiver, and also includes a step in which the sender receives a message including one or more bits set to convey an indication of low congestion, and a step in which, in response to the indication of low congestion, the sender increases the data transmission rate so as to achieve increased throughput. Thus, in the method recited in claim 1, the sender responds to feedback from the receiver provided by the receiver, with the feedback provided as one or more bits set to convey an indication of low congestion, i.e. set to signal low congestion, and then, in response to receiving such feedback, the sender increases the data transmission rate.

Applicant has argued that in contrast, Yanagihara fails to disclose a sender receiving as feedback one or more bits set to indicate low congestion. In response, the Office asserts that:

> Yanagihara teaches one or more bits (bits in RR in Figure 5) set to convey an indication of congestion (last sentence of Abstract, [0067]). Those bits are also an indication of low congestion ("congestion is extremely slight" in [0096]).

The last sentence of the Abstract is:

> The bit rate feedback information is obtained based on the congestion information on the network on the sender side, or obtained on a receiver side and fed back.

Paragraph [0067] is:

> [0067] Furthermore, the format of the RR packet includes network congestion information such as a packet loss rate and jitter information which represents a propagation delay fluctuation in relation to the video data packets received by the reception control section 14. The packet loss rate and the jitter included in the nth transmitted RR packet can be obtained by the reception control section 14 in accordance with, for example, the following formulas (5), (6), and (7).

Paragraph [0096] is:

> [0096] If the determination result does not correspond to Case 3 ("No" in the determination of the step S22), the jitter difference absolute value is compared with a threshold $\alpha/2$ and the packet loss rate is compared with a threshold δ in the step S23. If the comparison shows that the jitter difference absolute value is smaller than the threshold $\alpha/2$ or the packet loss rate is smaller than the threshold δ (Yes), it can be determined that congestion is extremely slight or avoided. If the determination result of the step S23 is No, it is determined that the case cannot be specified as extreme congestion or congestion avoidance. The processing proceeds to the step S24 in which the next control timing is waited for.

Applicant respectfully insists that the above shows clearly that in Yanagihara congestion is determined *based on* packet loss rate and jitter information in a RR (receiver report) packet provided by a receiver side. The determination compares the jitter and packet loss rate indicated by the RR to respective thresholds.

Thus, it cannot fairly be asserted that the RR contains "bits set to convey an indication of low congestion," as in the invention as claimed, but only information from which it can be determined, using various threshold values, whether congestion is high or low. The difference is clear: in the invention, there is a bit or bits whose values, by themselves, indicate low congestion. In Yanagihara, there is information that is of use in determining the congestion level, _but only when compared to threshold values not included in the RR_.

The same argument applies to claims 14 and 16. The portion of the argument in respect to transmitting a message including one or more bits set to convey an indication of low congestion applies also to claim 18.

Accordingly, applicant respectfully requests that the rejections under 35 USC §102 of claims 1, 14, and 16-18 be reconsidered and withdrawn, and also the rejection of claim 4, in view of its depending from claim 1.

Rejections under 35 USC §103

At section 4 of the Office action, claims 2 and 5-8 are rejected under 35 USC §103 as being unpatentable over Yanagihara.

In view of the dependencies of claims 2 and 5-8, and because the claims from which these depend are believed allowable for the reasons given above, applicant respectfully requests that the rejections under 35 USC §103 be reconsidered and withdrawn.

New claims

New claims 19 and 20 both recite the limitation of one or more bits set to convey an indication of low congestion, and so are believed allowable over the cited art for the same reasons as given for claim 1. New claim 21 depends from new claim 20, and

recites limitations already recited in allowable claim 15, and is believed allowable over the applied art at least in view of its dependency.
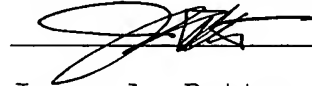
Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

Respectfully submitted,

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Date

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